

## Remarks

### I. Introduction

This is in response to the final Office Action dated July 16, 2009, and is being filed simultaneously with a Request for Continued Examination.

The Office Action rejected claims 1-17 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2005/0190775 (Tonnby). The Office Action rejected claims 18-20 under 35 U.S.C. §103(a) as being unpatentable over Tonnby in view of U.S. Patent No. 5,835,725 to Chiang et al. (Chiang).

Claims 1 and 18 have been amended. No new matter has been added. Claims 1-6, 8-18, and 20 are pending.

### II. Rejections under 35 U.S.C. § 102

Independent claims 1 and 10 were rejected as being anticipated by Tonnby. In order for a claim to be anticipated under 35 U.S.C. §102, **each and every** limitation of the claim must be found either expressly or inherently in a single prior art reference. PIN/NIP, Inc. v. Platte Chem. Co., 304 F.3d 1235, 1243 (Fed. Cir. 2002). In the present case, Tonnby does not show each and every limitation of independent claims 1 and 10. Therefore, applicants request the withdrawal of the rejections under 35 U.S.C. §102(e).

The present invention relates to establishing a network connection by requesting different IP addresses for different types of connections. The type of connection being established is indicated by a quality of service parameter in a request for the connection. For example, the quality of service parameter may indicate whether the requested connection is for a multimedia connection or a data connection. As described at page 16, line 17-21 of the specification, a request for a first or second network address may be implemented by a media access controller (MAC) using a first or second MAC address, respectively. Accordingly, when a multimedia connection is requested, a request is sent from

the MAC for a first network address using a first MAC address. When a data connection is requested, a request is sent from the MAC for a second network address using a second MAC address. As described at page 12, lines 11-20 of the specification, a MAC typically has a single MAC address. However, in this invention, a single MAC is assigned two MAC addresses, which are used to request two different types of IP addresses.

Independent claim 1 recites the above described aspects of the present invention. In particular, independent claim 1 has been amended to recite the limitations:

- sending a second request for one of a plurality of network addresses using one of first and second MAC addresses associated with said MAC based on said quality of service parameter, wherein said sending said second request comprises:
  - retrieving said quality of service parameter from said first request,
  - sending said second request for a first network address using said first MAC address if said quality of service parameter indicates a multimedia connection, and
  - sending said second request for a second network address using said second MAC address if said quality of service parameter indicates a data connection.

Independent claim 10 recites similar limitations.

Tonnby does not disclose this limitation of independent claim 1, and therefore does not anticipate independent claim 1 under the strict anticipation standard of §102.

Tonnby is directed to an access system for relating communication service providers and application service providers to users. As described in Tonnby, a user decision including VLAN, service and user port is sent to an administrator, which dynamically allocates to a relevant service agent a MAC address, defining a relation. As described in paragraph [0053] of Tonnby, when a user requests a certain service, an administrator dynamically assigns a MAC address to a particular service port to define a relationship between that service port and a particular user port. Although this paragraph describes allocating a first MAC

address SAMAC1 to service port PT1 and a second MAC address SAMAC2 to service port PT2, each of these MAC addresses is the MAC address of a separate user device. As described at paragraph [0060] of Tonnby, “each of these MAC addresses is associated with only one particular of the user ports UP11-UPk1”. Furthermore, as described at paragraph [0054] of Tonnby, “[a]ny of the user devices has **one** globally administrated MAC address, which is given by the manufacturer of the device”. (Emphasis added). Accordingly, Tonnby does not describe two MAC addresses assigned to the same device. Therefore, Tonnby fails to disclose “sending a second request for one of a plurality of network addresses using one of first and second MAC addresses associated with said MAC based on said quality of service parameter,” as recited in independent claim 1.

In the Response to Arguments section of the Office Action, the Examiner asserts that because paragraphs [0058] and [0059] Tonnby different MAC addresses SAMAC1 and SAMAC 3 being allocated to a the same service port PT1 of service agent SA1 (for different users U11 and U12 with user ports UP11 and UP12), Tonnby discloses two MAC addresses assigned to the same device. As described above, the MAC addresses in this section of Tonnby are MAC addresses of the user devices and each of the user devices has one globally administered MAC address. However, even assuming that the Examiners assertion is correct, the different MAC addresses are not allocated based on a quality of service parameter. In particular, Tonnby does not disclose using a first MAC address when a quality of service parameter indicates a multimedia connection and using a second MAC address when the quality of service parameter indicates a data connection.

In the rejection of claim 7, the Examiner relies on paragraph [0084] of Tonnby as disclosing “sending said second request for a first network address using said first MAC address if said quality of service parameter indicates a multimedia connection; and sending said second request for a second network address using said second MAC address if said quality of service parameter

indicates a data connection.” At paragraph [0084], Tonnby states “The quality of service for the relations are decided [sic] in agreements and denoted for each relation in the register REG1 in FIG. 5. This is exemplified by a quality of service Q having a level QoS1 denoted on the list L11 for the relation R11, which relation is defined by the service agent MAC address SAMAC1. However, the relation defined by the MAC address is the relation between the service agent and the user. (paragraphs [0058] and [0059]) Based on an agreement with the user, a quality of service is known for each user. Accordingly, in Tonnby, the MAC address is used to identify the user, which identifies the quality of service. In independent claim 1 as amended, the quality of service is retrieved, and the MAC address is selected based on the quality of service. The MAC address in Tonnby is not chosen based on the quality of service. Furthermore, although Tonnby describes different MAC addresses at a service agent corresponding to different users, there is no description in Tonnby of different MAC addresses for a multimedia network and a data network. Therefore, Tonnby fails to disclose “sending said second request for a first network address using said first MAC address if said quality of service parameter indicates a multimedia connection,” and sending said second request for a second network address using said second MAC address if said quality of service parameter indicates a data connection,” as recited in independent claim 1.

Thus, for the reasons discussed above, independent claim 1 is allowable over the cited art. Independent claim 10 is allowable for similar reasons. Since claims 2-6 and 8-9 depend from allowable independent claim 1, these claims are also allowable. Since claims 11-17 depend from allowable independent claim 10, these claims are also allowable.

### III. Rejections under 35 U.S.C. § 103

Independent claim 18 was rejected as being unpatentable over Tonnby in view of Chiang. In order to “establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art.” In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Furthermore, “all words in a claim must be considered in judging the patentability of that claim against the prior art.” In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See also MPEP § 2143.03. Neither of the cited references, either alone or in combination, teach all of the claim limitations of independent claim 18. Therefore, Applicants request the withdrawal of the rejections under 35 U.S.C. §103(a).

Independent claim 18 is directed to a computer readable medium storing executable instructions, and has been amended to recite similar limitations to amended independent claim 1.

For the reasons described above with respect to independent claim 1, Tonnby fails to disclose “sending said second request for a first network address using said first MAC address if said quality of service parameter indicates a multimedia connection,” and sending said second request for a second network address using said second MAC address if said quality of service parameter indicates a data connection,” as recited in independent claim 18. Further, these limitations of independent claim 18 are not disclosed in Chiang, and the Office Action does not allege that these limitations are disclosed in Chiang.

Thus, for the reasons discussed above, independent claim 18 is allowable over the cited art. Since claim 20 depends from allowable independent claim 18, claim 20 is also allowable.

#### IV. Conclusion

For the reasons discussed above, all pending claims are allowable over the cited art. Reconsideration and allowance of all claims is respectfully requested.

Respectfully submitted,

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